

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 3:08CR141 DPJ-LRA

ANTONIO TURNER

ORDER

This criminal matter is before the Court on motion of Defendant Antonio Turner to exclude evidence [138]. Specifically, Defendant seeks to exclude the testimony of Anthony Davenport as a sanction for the government's late disclosure of this witness.

The government received notice of this witness on August 9, 2010 at 4:54 p.m., and on August 11, 2010 at 3:53 p.m., the government advised Defendant of the witness and tendered "all known information of the witness including the letter written by him to the District Attorney and his criminal history." Resp. at 2. Under these circumstances, the Government did not breach its disclosure requirements.

The Court notes that the Federal Public Defender has an investigator on staff who can further investigate this witness, and the Court will approve expenses for retaining an additional investigator, if necessary, due to the impending trial. In addition, the Court finds that the Government will not be allowed to call Anthony Davenport until the end of its case, to give Defendant additional time to investigate this witness prior to his testimony.

Based on the foregoing, the Court finds that Defendant's motion to exclude the testimony of Anthony Davenport [138] should be denied.

SO ORDERED AND ADJUDGED this the 17th day of August, 2010.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE